

a) Pending the hearing and final disposal of Company Application an order appointing Court Receiver on the properties i.e. two tankers bearing No. S.S.316 Liquid Chemical Storage Tank and M.S.Liquid Chemical Tank more particularly described in schedule (one) of the Exhibit "B" to the Petition;

b) Pending the hearing and final disposal of this application Court Receiver High Court, Bombay to take possession of the tankers and hand over the same to the Applicants Company with further liberty to the Applicants to dispose of the same by private treaty in favour of the highest bidder and adjust the sale proceeds towards the dues due to the Applicants Company;

c) Pending the hearing and final disposal of this application Court Receiver High Court, Bombay, be discharged on handing over the tankers to the Applicants with further direction to recover their costs, charges and expenses from the Respondent Company;

d) Ad-interim orders in terms of prayer (a), (b) and (c) above;

e) For such further and other order's as this Hon'ble Court may deem fit and necessary;

f) Costs of this Application may be provided for."

2. According to the applicant-original petitioner, above equipments are leased to the company and such assets are not the properties in which the company could be said to be having any interest or right and title.

3. Be that as it may, the learned advocate for the company after taking instructions from the representative of the company and constituted attorney Shri V.R.Pitale, who is present in the Court, states that a sum of Rs.19.00 lakh has

already been paid to the applicant-original petitioner. Ms.Joshi confirms this fact. Shri Mimani states that a further sum of Rs.16.00 lakh would be paid on or before 25th September 2006. Post dated cheques have already been handed over and that the amount would be cleared by the aforesaid date.

4. The authorised signatory/constituted attorney of the company states that the post dated cheques would be substituted by Demand Drafts drawn in the name of petitioners and the above amount would be paid before 25th September 2006.

5. In these circumstances, Shri Mimani states that the Court Receiver may not be appointed.

6. In my view, the interest of justice would be subserved if the company application is disposed of by directing that in the event the amount of Rs.16.00 lakh is not paid by 25th September 2006 the Court Receiver, High Court, Bombay shall stand appointed Receiver of the leased equipments described in prayer clause (a) above and Exhibit-B to the company petition.

7. It is not disputed before me that these

assets cannot be said to be belonging to the company in winding up and, therefore, it is not necessary to appoint Official Liquidator and in terms of the Companies Act, there is no prohibition in either applying for appointment of Court Receiver or for this Court to appoint the same. Until the Court Receiver takes charge, it is agreed between the parties that the leased equipments which are lying at Jawaharlal Nehru Port Trust (JNPT), shall not be disposed off or dealt with in any manner. Company Application stands disposed of.

(S.C.DHARMADHIKARI, J.)